

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	
	:	
v.	:	1:20CR347
	:	
EMMANUEL OLAKUNLE ATOYEBI	:	

FACTUAL BASIS

NOW COME the United States of America, by and through Matthew G.T. Martin, United States Attorney for the Middle District of North Carolina, and as a factual basis under Rule 11(b)(3), Fed. R. Crim. P., states as follows:

Emmanuel Olakunle Atoyebi (“Atoyebi”) was born on May 8, 19XX, in Lagos Island, Lagos, Nigeria and is a citizen of Nigeria. On or about February 28, 2007, Atoyebi’s parent, who at that time was a United States citizen, filed a petition for Alien Relative (Form I-130) with the United States Citizenship and Immigration Services (“USCIS”) on behalf of Atoyebi. USCIS approved the I-130 petition on July 25, 2007. On or about May 30, 2008, Atoyebi filed an Application for Immigrant Visa and Alien Registration with the U.S. Department of State, located at the U.S. Consulate in Lagos, Nigeria. The U.S. Department of State issued a visa to Atoyebi on March 13, 2009. On April 17, 2009, Atoyebi entered the United States as a Lawful Permanent Resident. His alien file reference number is XXX 754 268.

On June 17, 2012, in Guilford County, North Carolina, Atoyebi registered to vote.

On or about November 5, 2016, in Guilford County, North Carolina, Atoyebi voted in the November 2016 election at a so-called “Early Voting” site. The November 2016 election was held for the purpose of electing a candidate for the office of President, Vice President, Member of the United States Senate, and Member of the United States House of Representatives, among other positions on the ballot.

Twelve days after voting, on November 17, 2016, Atoyebi filed an Application for Naturalization (Form N-400) with USCIS. As part of the N-400 application completed by Atoyebi under penalty of perjury, Atoyebi claimed to have never voted, never registered to vote, and never claimed to be a United States citizen. Specifically, Atoyebi responded in Part 12 of the N-400 application, titled “Additional Information About You” (Person Applying for Naturalization), to questions as follows:

1. “Have you EVER claimed to be a U.S. citizen (in writing or any other way)?” Atoyebi responded by checking a box indicating “no.”
2. “Have you EVER registered to vote in any Federal, State or local election in the United States?” Atoyebi responded by checking a box

indicating “no.”

3. “Have you EVER voted in any Federal, State or local election in the United States?” Atoyebi responded by checking the box indicating “no.”

Atoyebi made these statements despite the fact that he had claimed to be a U.S. citizen, registered to vote, and voted, which he knew at the time he signed the N-400 application under penalty of perjury.

On March 24, 2017, during a telephonic interview with an official from the North Carolina Board of Elections (“NCBOE”), Atoyebi acknowledged that he registered to vote and voted in the 2016 election. He also acknowledged that he is not a United States citizen. Immediately following this telephonic interview, the NCBOE official sent an email with the subject line “Voters Registration” to Atoyebi’s email address requesting that he confirm in writing what they had just discussed and that he complete and return a Request to Cancel Voter Registration Form.

Three days later, on Monday, March 27, 2017, Atoyebi sent a response email to the March 24 email from NCBOE, acknowledging that he was not a citizen and, in fact, had voted in the November 2016 election. Atoyebi’s email response included his alien number.

On or about June 15, 2017, just over two months after acknowledging to the NCBOE that he had voted, Atoyebi affirmed to USCIS during an in-person interview with USCIS at the USCIS facility in Charlotte, North Carolina the statements in his N-400 citizenship application about claims of citizenship, voter registration, and voting. During this interview, a USCIS official reviewed Atoyebi's N-400 application by reading each question aloud and having Atoyebi orally affirm each answer in the application. During this in-person process, the USCIS made hand-written check marks in red ink on Atoyebi's N-400 application to indicate that Atoyebi confirmed the facts orally under oath. At the conclusion of the examination, the USCIS official and Atoyebi signed the N-400 application, with Atoyebi affirming the accuracy of everything in the application. Atoyebi stated during the interview that he had never claimed to be a U.S. Citizen, had never registered to vote, and had never voted, when, in fact, he had claimed to be a U.S Citizen, had registered to vote, and had voted in the November 2016 election.

On July 27, 2020, federal agents from the Department of Homeland Security interviewed Atoyebi in a non-custodial setting at his home in Greensboro, North Carolina. During this interview, when shown the voter registration with his signature, Atoyebi stated that he did not remember

registering and indicated that he does not know who completed the registration form. He also said that he did not vote in the November 2016 election and denied communicating with NCBOE regarding his registration to vote, when, in fact, he had both voted in the November 2016 election and communicated with NCBOE officials by telephone and email in March 2017 regarding voting in the November 2016 election and his registration to vote.

Atoyebi knew he was not a United States citizen at all relevant times. Atoyebi, in fact, is not and never has been a United States citizen.

This the 12th day of January, 2021.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2021, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Kathleen A. Gleason, Attorney for Defendant

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